

Notice of Allowability

Application No.

10/677,281

Examiner

Quang D. Thanh

Applicant(s)

SEVIER ET AL.

Art Unit

3764

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to an interview on 12/27/2004.
2. ☒ The allowed claim(s) is/are 27-29, 31-33, 46, 47, 51, 52, 54 and 55.
3. ☒ The drawings filed on 26 September 2003 are accepted by the Examiner.
4. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☐ All b) ☐ Some* c) ☐ None of the:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.
THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
6. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.

Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

- | | |
|---|--|
| 1. <input type="checkbox"/> Notice of References Cited (PTO-892) | 5. <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 2. <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 6. <input checked="" type="checkbox"/> Interview Summary (PTO-413),
Paper No./Mail Date _____ |
| 3. <input type="checkbox"/> Information Disclosure Statements (PTO-1449 or PTO/SB/08),
Paper No./Mail Date _____ | 7. <input checked="" type="checkbox"/> Examiner's Amendment/Comment |
| 4. <input type="checkbox"/> Examiner's Comment Regarding Requirement for Deposit
of Biological Material | 8. <input checked="" type="checkbox"/> Examiner's Statement of Reasons for Allowance |
| | 9. <input type="checkbox"/> Other _____ |

EXAMINER'S AMENDMENT

1. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Daniel Lueders on 12/27/2004.

The application has been amended as follows:

Claims 30, 34-45, 48-50, 53, and 56-58 have been cancelled.

Claim 27 has been replaced with the following:

27. A diagnostic and therapeutic instrument, comprising:

a body having a first upper surface, a second lower surface disposed opposite from said upper surface, and opposing lateral surfaces, said upper and lower surfaces converging at a first end to define a blunt tissue-engaging edge and diverging at an opposing second end to define a comparatively larger second end defined by a surface extending between said upper and lower surfaces, said opposing lateral surfaces extending vertically between said upper and lower surfaces and longitudinally between said first and second ends of said instrument body; wherein said instrument body is constructed of a resin ceramic composite material having resonant capabilities such that said body aids in diagnosis and treatment of fibrotic soft tissue.

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Claim 31 has been replaced with the following:

31. A hand-held instrument for engaging and applying pressure to the skin of patient in the diagnosis or treatment of underlying fibrotic soft tissue, comprising:

a rigid unitary body having an upper surface, a lower surface disposed opposite from said upper surface, said upper and lower surfaces converging at a first end to define a blunt tissue- engaging edge generally coinciding with the intersection of said upper and lower surfaces and diverging at an opposing second end to define a comparatively larger second end disposed opposite from said first end, and opposing lateral surfaces extending vertically between said upper and lower surfaces and longitudinally between said first and second ends of said instrument body,

said upper surface being defined by a gradually convexly curved surface extending at least partially and longitudinally along the length of said instrument body between said first and second ends thereof,

said lower surface being defined by a gradually yet continuously concavely curved surface extending substantially and longitudinally along the entire length of said instrument body between said first and second ends thereof; and

wherein said lower surface is substantially planar in a transverse direction to the length of said instrument body.

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The following is an examiner's statement of reasons for allowance: re claim 27, prior art of record fails to teach or render obvious a diagnostic and therapeutic instrument comprising structures having all the features as substantially claimed by applicants, and in combination with all the elements, and further including the instrument body being constructed of a resin ceramic composite material having resonant capabilities such that said body aids in diagnosis and treatment of fibrotic soft tissue; re claim 31, prior art of record fails to teach or render obvious a diagnostic and therapeutic instrument comprising structures having all the features as substantially claimed by applicants, and in combination with all the elements, and further including the lower surface being defined by a gradually yet continuously concavely curved surface extending substantially and longitudinally along the entire length of the instrument body between said first and second ends thereof; and also being substantially planar in a transverse direction to the length of the instrument body.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Quang D. Thanh whose telephone number is (571) 272-4982. The examiner can normally be reached on Monday-Thursday & alternate Friday.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Justine Yu can be reached on (571) 272-4835. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306 for both regular and After-Final communications.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Quang D. Thanh
Patent Examiner
Art Unit 3764
(571) 272-4982
December 27, 2004

QR


JUSTINE R. YU
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3700

12/27/04